

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,953

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her ANFC benefits. The issue is whether the petitioner can remain ANFC eligible even though her income for November, 1995, places her above the program maximum.

FINDINGS OF FACT

The facts are not in dispute. Prior to November 1, 1995, the petitioner received ANFC for herself and her child. In October, 1995, the petitioner took a job as a school crossing guard. She is paid on a per diem basis. Based on her anticipated earnings for November, 1995, and after allowing her all allowable deductions and disregards from her income, the Department determined that the petitioner was \$30.00 over the ANFC maximum for that month, and it terminated the petitioner's ANFC grant.

The petitioner does not dispute the Department's calculations. She is concerned, however, that her income in subsequent months is unlikely to be above the ANFC maximum (in December, for example, she will work fewer days because of school holidays) and that, as a result, she will be forced to reapply for ANFC on a month by month basis. The petitioner would prefer to remain eligible for ANFC and simply report her income on a monthly basis to enable the Department to promptly determine her eligibility without the formality and potential delay of filing a new application each month.

The Department is not unsympathetic to the petitioner's situation, but it maintains that its regulations have eliminated "retrospective budgeting" for ANFC, and that all individuals not receiving ANFC in any given month must file a new application for benefits if they want to go back on the program.⁽¹⁾

ORDER

The Department's decision is affirmed.

REASONS

Welfare Assistance Manual (W.A.M.) § 2216.2 provides: "All factors of eligibility . . . shall be determined prospectively for all assistance groups for all payment months." The above regulation (effective July, 1994) appears to have effectively eliminated "monthly reporting" and "retrospective budgeting" for ANFC households in Vermont. See W.A.M. § 2216.1. The hearing officer could find nothing in the regulations that would enable or require the Department to allow a household--even one "on the line" like the petitioner's--to maintain ANFC eligibility on an ongoing basis and have their benefits determined each month on the basis of anticipated income without the necessity of filing a separate application.

The hearing officer agrees that the petitioner might well find herself in a monthly "revolving door" of ANFC eligibility during the months in which she works.⁽²⁾ Unfortunately, however, this seems to be one of the unintended byproducts of the Department's attempt to treat all ANFC recipients uniformly regardless of the amount and sources of any additional income they might have. Inasmuch as the Department's decision is in accord with the regulations the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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1. The Department points out, however, that the petitioner remains eligible for medicaid, and that in any month in which she does not receive ANFC her child support benefits will be paid directly to her, instead of being kept by OCS and used to offset her ANFC payments.
2. For any month in which the petitioner is found eligible for ANFC, however, her benefits will continue until her income in any subsequent month exceeds the ANFC maximum. The petitioner will be required to report changes in her income, and a reported increase in income may render her ineligible for that month; but she will not have to file monthly applications to maintain her eligibility.